IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 19629 of 2007(J)

PETITIONER:

M.A.NAZAR, AGED 50 YEARS,
SON OF M.P.ABDUL KHADER,
'MANADATH' DESOM, ALUVA-683103.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:
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1. THE LAND REVENUE COMMISSIONER,
OFFICE OF THE LAND REVENUE COMMISSIONER,
OPPOSITE MUSEUM, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD, ERNAKULAM.

3. THE TAHASILDAR, ALUVA.

BY GOVT.PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.19629 OF 2007

DATED THIS THE 29th DAY OF JUNE, 2007

JUDGMENT

The petitioner challenges Ext.P1 notice directing the petitioner to vacate the properties mentioned therein within three days. The petitioner contends that before issuing Ext.P1 notice he has not been given an opportunity of hearing. According to him, the property belongs absolutely to him as obtained by Ext.P2 title deed and he has not encroached into the 'river puramboke' as alleged in Ext.P1. The petitioner is confident that he would be able to convince the authorities, if he is given a chance to produce evidence in support of his contentions.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that Ext.P1 was preceded by a notice and hearing as contemplated under the Kerala Land Conservancy Act and Rules. Ext.P1 notice does not contain any reasons as to why the emergency provisions as provided under the Act is to be invoked. That being so, Ext.P1 has been issued in violation of principles of natural justice as also the provisions of the Kerala Land Conservancy Act and Rules. However, for the purpose of this case, I

do not think that it is necessary to quash the same, if Ext.P1 is considered as a show cause notice.

3. Accordingly, the petitioner shall file objections to Ext.P1 before the 3rd respondent within one week from today treating the same as a show cause notice. On receipt of the same, the 3rd respondent shall afford an opportunity of being heard to the petitioner which shall include an opportunity to adduce evidence also. Thereafter the 3rd respondent shall pass a speaking order dealing with the contentions and evidence of the petitioner and communicate that decision to the petitioner. Till communication of such decision, the petitioner shall not be evicted from the property in question.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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